

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Aaron Rubenstein (Plaintiff/Petitioner)

(List the full name(s) of the plaintiff(s)/petitioner(s).)

1:17 CV 00821 (JPO)()

-against-

Sears Holdings Corp. (Nominal Defendant), and
Rofam Investments LLC; John R. Burch; Perceval Investment Partners, L.P.; Eva Wiezorek;
Gary Atwell and Susan Atwell (as trustees for Susan L. Atwell Revocable Trust);
Larry Souza and Sharon Souza (as trustees for The Souza Family Trust);
Robert Rubin (as trustee for Robert Rubin Revocable Trust); and
Jennifer Coll (individually, and as trustee for Megan B. Coll Grantor Trust and Robert J. Coll, III Grantor Trust) (Defendants).
(List the full name(s) of the defendant(s)/respondent(s).)

NOTICE OF APPEAL

Notice is hereby given that the following parties: Aaron Rubenstein (Plaintiff)

(list the names of all parties who are filing an appeal)

in the above-named case appeal to the United States Court of Appeals for the Second Circuit

from the ☐ judgment ☒ order entered on: March 27, 2019

(date that judgment or order was entered on docket)

that: granted Defendants' motion to dismiss on the basis that Plaintiff insufficiently alleged that Fairholme formed a "group" with Defendants, Fairholme's clients, as defined under Section 13(d) and for purposes of determining the "insider" status of group members under Section 16 of the Securities Exchange Act of 1934—notwithstanding Fairholme's disclosure (and Defendants' actual knowledge) that client accounts were invested, on behalf of the Defendants by Fairholme and Berkowitz as a non-exempt investment advisor and controlling Sears insider.

(If the appeal is from an order, provide a brief description above of the decision in the order.)

03/28/2019

Dated


Signature

Tauber, Miriam, D

Name (Last, First, MI)

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* Each party filing the appeal must date and sign the Notice of Appeal and provide his or her mailing address and telephone number, EXCEPT that a signer of a pro se notice of appeal may sign for his or her spouse and minor children if they are parties to the case. Fed. R. App. P. 3(c)(2). Attach additional sheets of paper as necessary.